

**Executive Summary – Enforcement Matter – Case No. 41895**

**Randy Richardson**

**RN106112907**

**Docket No. 2011-1016-MLM-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MLM - AIR, IHW

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Randy Richardson, located at 160 Van Zandt County Road ("VZCR") 4715, Van Zandt County

**Type of Operation:**

Aluminum and nickel recovery facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

**Texas Register Publication Date:** February 22, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$61,017

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$57,417

**Total Paid to General Revenue:** \$100

**Total Due to General Revenue:** \$3,500

Payment Plan: 35 payments of \$100 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 41895**

**Randy Richardson**

**RN106112907**

**Docket No. 2011-1016-MLM-E**

***Investigation Information***

**Complaint Date(s):** March 3, 2011

**Complaint Information:** Alleged that a neighbor was burning metal which resulted in black smoke being blown across the complainant's property.

**Date(s) of Investigation:** March 2, 2011 and March 31, 2011

**Date(s) of NOE(s):** April 28, 2011 and May 31, 2011

***Violation Information***

1. Failed to obtain a permit for the processing, storage and disposal of industrial solid and hazardous waste. Specifically, Respondent was using a furnace to burn fabric bags, socks, paper and plastic filter elements off of nickel-bearing waste for metal reclamation without first obtaining a permit for such activity [30 TEX. ADMIN. CODE §§ 335.2(a) and 335.43 and 40 CODE OF FEDERAL REGULATIONS (“CFR”) § 270.1(c)].
2. Failed to prevent the unauthorized discharge of industrial solid and hazardous waste. Specifically, discharges of ash were observed near the Industrial Furnace Building (“IFB”) and on the east side of the property. The ash pile on the east side of the property was estimated to be approximately one to two cubic yards. Samples collected from these ash piles tested characteristically hazardous for chromium and lead. Some samples collected from just east of the IFB also tested characteristically hazardous for cadmium and lead. In addition, a large pile of waste consisting of empty steel drums, scrap metal and aluminum dross was observed north of the IFB [30 TEX. ADMIN. CODE § 335.4(1) and TEX. WATER CODE § 26.121].
3. Failed to conduct hazardous waste determinations and waste classifications on wastes received for treatment, storage and disposal from off-site generators. Specifically, Respondent received 12 waste streams from off-site generators [30 TEX. ADMIN. CODE §§ 335.62, 335.503(a) and 335.513 and 40 CFR § 262.11].
4. Failed to provide notification to the TCEQ for a facility that recycles, stores, processes or disposes of industrial solid and hazardous waste and to provide written notification for all waste management activities [30 TEX. ADMIN. CODE § 335.6(a) and (c)].
5. Failed to keep containers of hazardous waste closed except when adding or removing waste. Specifically, three drums containing absorbent pads mixed with metal shavings were observed open. One of the drums tested characteristically hazardous for lead [30 TEX. ADMIN. CODE § 335.69(a)(1)(A) and 40 CFR §§ 262.34(a)(1)(i) and 265.173(a)].
6. Failed to clearly label containers used to store hazardous waste with the words “Hazardous Waste.” Specifically, three waste drums and two 250-gallon totes were sampled and found to be characteristically hazardous for lead and chromium, respectively. These containers were not labeled [30 TEX. ADMIN. CODE § 335.69(a)(3) and 40 CFR § 262.34].

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7. Failed to obtain an Environmental Protection Agency Identification number prior to the treatment, storage and disposal of hazardous waste [30 TEX. ADMIN. CODE § 335.63(a) and 40 CFR § 262.12(a)].

8. Failed to keep records pertaining to hazardous and industrial solid waste management or treatment activities. Specifically, Respondent did not have records regarding activity notification, permitting, waste classification, waste determination, personnel safety, waste analysis, waste treatment plans or manifesting [30 TEX. ADMIN. CODE § 335.9(a)(1)].

9. Failed to obtain authorization prior to operating an industrial furnace used to melt aluminum and burn nickel filters for metal recovery [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].

10. Failed to comply with the general prohibition of outdoor burning. Specifically, it was noted that Respondent has been conducting outdoor burning of wooden pallets. The burn pile observed was approximately 50 cubic yards [30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to:

a. Immediately:

i. Cease processing, storage and disposal of any additional industrial solid and hazardous waste at the Plant until such time as a permit or authorization is obtained;

ii. Begin maintaining records of all waste activities at the Plant; and

iii. Cease all unauthorized outdoor burning.

b. Within 30 days:

i. Submit an administratively complete permit application for the industrial furnace;

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**Randy Richardson**

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- ii. Respond completely and adequately, as determined by the TCEQ, to all letter requests for information concerning the permit application within 30 days after the date of such letters, or by any other deadline specified in writing;
  - iii. Submit an Affected Property Assessment Report to the Executive Director ("ED") for approval. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program which may include: plans, reports, and notices under Subchapter E; financial assurance; and Institutional Controls under Subchapter F;
  - iv. Submit a complete notification of all solid waste management and recycling activities conducted at the Plant;
  - v. Conduct waste determinations and classifications on all wastes;
  - vi. Develop and implement measures to ensure that all containers of hazardous waste are closed except when adding or removing waste;
  - vii. Develop and implement procedures to ensure that all containers used to store hazardous waste are marked or properly labeled with the words "Hazardous Waste";
  - viii. Obtain an EPA ID number, in accordance with 30 TEX. ADMIN. CODE § 335.63(a) and 40 CFR § 262.12(a);
  - ix. Ensure that all waste, including burned material, is removed and properly disposed of at an authorized facility;
  - x. Submit a TCEQ PI-7 Form to register for a Permit by Rule ("PBR") in order to obtain authorization for the industrial furnace; and
  - xi. Respond completely and adequately, as determined by the ED, to all requests for information concerning the PBR Registration within 30 days after the date of such requests, or by other deadline specified in writing.
- c. Within 90 days, submit written certification that either authorization to operate the industrial furnace has been obtained or that operation has ceased until such time that appropriate authorization is obtained.
- d. Within 180 days, submit written certification that either authorization to store, treat or dispose of waste has been obtained or that operation has ceased until such time that authorization is obtained.
- e. Within 15 days following completion of Ordering Provisions a. through d., submit written certification documenting compliance with each provision.

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**Randy Richardson**

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**Docket No. 2011-1016-MLM-E**

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Michael Meyer, Enforcement Division,  
Enforcement Team 6, MC 128, (512) 239-4492; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** Randy Richardson, 2491 VZCR 4413, Ben Wheeler, Texas 75754

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

**DATES**

**Assigned PCW**

16-Jun-2011  
22-Jun-2011

**Screening** 17-Jun-2011

**EPA Due**

## RESPONDENT/FACILITY INFORMATION

**Respondent** Randy Richardson

**Reg. Ent. Ref. No.** RN106112907

**Facility/Site Region** 5-Tyler

**Major/Minor Source** Minor

## CASE INFORMATION

**Enf./Case ID No.** 41895

**Docket No.** 2011-1016-MLM-E

**Media Program(s)** Industrial and Hazardous Waste

**Multi-Media** Air

**No. of Violations** 10

**Order Type** 1660

**Government/Non-Profit** No

**Enf. Coordinator** Michael Meyer

**EC's Team** Enforcement Team 6

**Admin. Penalty \$ Limit Minimum**

\$0

**Maximum**

\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)**

**Subtotal 1** \$60,000

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History**

0.0% Enhancement

**Subtotals 2, 3, & 7** \$0

**Notes**

No adjustment for compliance history

**Culpability**

No

0.0% Enhancement

**Subtotal 4** \$0

**Notes**

The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments**

**Subtotal 5** \$0

**Economic Benefit**

0.0% Enhancement\*

**Subtotal 6** \$0

Total EB Amounts \$4,312

Approx. Cost of Compliance \$78,767

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7**

**Final Subtotal** \$60,000

**OTHER FACTORS AS JUSTICE MAY REQUIRE**

1.7%

**Adjustment** \$1,017

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

Recommended enhancement to capture the avoided cost of compliance associated with violation no. 10.

**Final Penalty Amount** \$61,017

**STATUTORY LIMIT ADJUSTMENT**

**Final Assessed Penalty** \$61,017

**DEFERRAL**

20.0%

Reduction

**Adjustment** -\$12,203

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

\$48,814

Screening Date 17-Jun-2011

Docket No. 2011-1016-MLM-E

PCW

Respondent Randy Richardson

Policy Revision 2 (September 2002)

Case ID No. 41895

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106112907

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

**Compliance History Worksheet**

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

No adjustment for compliance history

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%



Screening Date 17-Jun-2011

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PCW

Respondent Randy Richardson

Policy Revision 2 (September 2002)

Case ID No. 41895

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106112907

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 335.2(a) and 335.43 and 40 Code of Federal Regulations ("CFR") § 270.1(c)

Violation Description

Failed to obtain a permit for the processing, storage and disposal of industrial solid and hazardous waste. Specifically, the Respondent was using a furnace to burn fabric bags, socks, paper and plastic filter elements off of nickel-bearing waste for metal reclamation without first obtaining a permit for such activity.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 3

78 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,000

Three monthly events are recommended from the March 31, 2011 investigation date to the June 17, 2011 screening date.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	((mark with x))

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$419

Violation Final Penalty Total \$3,051

This violation Final Assessed Penalty (adjusted for limits) \$3,051

# Economic Benefit Worksheet

Respondent Randy Richardson  
Case ID No. 41895  
Reg. Ent. Reference No. RN106112907  
Media Industrial and Hazardous Waste  
Violation No. 1

Percent Interest 5.0  
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount  
Item Description No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	31-Mar-2011	31-Jan-2012	0.84	\$419	n/a	\$419
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a permit to treat industrial solid and hazardous waste. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$419

Screening Date 17-Jun-2011

Docket No. 2011-1016-MLM-E

PCW

Respondent Randy Richardson

Policy Revision 2 (September 2002)

Case ID No. 41895

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106112907

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 335.4(1) and Tex. Water Code § 26.121

## Violation Description

Failed to prevent the unauthorized discharge of industrial solid and hazardous waste. Specifically, discharges of ash were observed near the Industrial Furnace Building ("IFB") and on the east side of the property. The ash pile on the east side of the property was estimated to be approximately one to two cubic yards. Samples collected from these ash piles tested characteristically hazardous for chromium and lead. Some samples collected from just east of the IFB also tested characteristically hazardous for cadmium and lead. In addition, a large pile of waste consisting of empty steel drums, scrap metal and aluminum dross was observed north of the IFB.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 3

78 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

Three monthly events are recommended from the March 31, 2011 investigation date to the June 17, 2011 screening date.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$436

Violation Final Penalty Total \$7,627

This violation Final Assessed Penalty (adjusted for limits) \$7,627

# Economic Benefit Worksheet

Respondent Randy Richardson

Case ID No. 41895

Reg. Ent. Reference No. RN106112907

Media Industrial and Hazardous Waste  
Violation No. 2

Percent Interest 5.0  
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount  
Item Description No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$10,000	31-Mar-2011	12-Feb-2012	0.87	\$436	n/a	\$436
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct an Affected Property Assessment Report for the Plant. The Date Required is the investigation date and the Final Date is the estimated compliance date.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$436

Screening Date 17-Jun-2011

Docket No. 2011-1016-MLM-E

PCW

Respondent Randy Richardson

Policy Revision 2 (September 2002)

Case ID No. 41895

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106112907

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 335.62, 335.503(a) and 335.513 and 40 CFR § 262.11

## Violation Description

Failed to conduct hazardous waste determinations and waste classifications on wastes received for treatment, storage and disposal from off-site generators. Specifically, the Respondent received 12 waste streams from off-site generators.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 12

78 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$30,000

Twelve events (one event per waste stream) are recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

x

(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$30,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$2,113

Violation Final Penalty Total \$30,509

This violation Final Assessed Penalty (adjusted for limits) \$30,509

# Economic Benefit Worksheet

**Respondent** Randy Richardson

**Case ID No.** 41895

**Reg. Ent. Reference No.** RN106112907

**Media** Industrial and Hazardous Waste

**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$50,400	31-Mar-2011	31-Jan-2012	0.84	\$2,113	n/a	\$2,113
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

### Notes for DELAYED costs

Estimated cost to conduct hazardous waste determinations and classifications on 12 waste streams. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

### Notes for AVOIDED costs

Approx. Cost of Compliance

\$50,400

TOTAL

\$2,113

Screening Date 17-Jun-2011

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PCW

Respondent Randy Richardson

Policy Revision 2 (September 2002)

Case ID No. 41895

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106112907

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 335.6(a) and (c)

Violation Description Failed to provide notification to the TCEQ for a facility that recycles, stores, processes or disposes of industrial solid and hazardous waste and to provide written notification for all waste management activities.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

## &gt;&gt; Programmatic Matrix

	Falsification				Percent
		Major	Moderate	Minor	
		X			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 1 78 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$1,000

One single event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$1,017

This violation Final Assessed Penalty (adjusted for limits) \$1,017

# Economic Benefit Worksheet

**Respondent** Randy Richardson  
**Case ID No.** 41895  
**Reg. Ent. Reference No.** RN106112907  
**Media** Industrial and Hazardous Waste  
**Violation No.** 4

**Percent Interest** 5.0  
**Years of Depreciation** 15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	31-Mar-2011	31-Jan-2012	0.84	\$21	n/a	\$21
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to notify the TCEQ of all solid waste management activities at the Plant. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$21



Screening Date 17-Jun-2011

Docket No. 2011-1016-MLM-E

PCW

Respondent Randy Richardson

Policy Revision 2 (September 2002)

Case ID No. 41895

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106112907

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 335.69(a)(1)(A) and 40 CFR §§ 262.34(a)(1)(i) and 265.173(a)

Violation Description

Failed to keep containers of hazardous waste closed except when adding or removing waste. Specifically, three drums containing absorbent pads mixed with metal shavings were open. One of the drums tested characteristically hazardous for lead.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release Actual			
Potential	x		

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 3

78 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$7,500

Three single events (one event for each open container) are recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$7,627

This violation Final Assessed Penalty (adjusted for limits) \$7,627

# Economic Benefit Worksheet

**Respondent** Randy Richardson  
**Case ID No.** 41895  
**Reg. Ent. Reference No.** RN106112907  
**Media** Industrial and Hazardous Waste  
**Violation No.** 5

**Percent Interest** 5.0  
**Years of Depreciation** 15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	31-Mar-2011	31-Jan-2012	0.84	\$21	n/a	\$21

### Notes for DELAYED costs

Estimated cost to develop and implement procedures to ensure that all containers storing hazardous waste are properly closed except when adding or removing waste. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

### Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$21

Screening Date 17-Jun-2011

Docket No. 2011-1016-MLM-E

PCW

Respondent Randy Richardson

Policy Revision 2 (September 2002)

Case ID No. 41895

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106112907

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 335.69(a)(3) and 40 CFR § 262.34

Violation Description

Failed to clearly label containers used to store hazardous waste with the words "Hazardous Waste". Specifically, three waste drums and two 250-gallon totes were sampled and found to be characteristically hazardous for lead and chromium, respectively. The containers were not labeled.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 5

78 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$5,000

Five single events (one event for each unlabeled container) are recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$5,085

This violation Final Assessed Penalty (adjusted for limits) \$5,085

# Economic Benefit Worksheet

**Respondent** Randy Richardson  
**Case ID No.** 41895  
**Reg. Ent. Reference No.** RN106112907  
**Media** Industrial and Hazardous Waste  
**Violation No.** 6

**Percent Interest** 5.0  
**Years of Depreciation** 15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	31-Mar-2011	31-Jan-2012	0.84	\$10	n/a	\$10

Notes for DELAYED costs

Estimated cost to label three drums and two 250-gallon totes with the words "Hazardous Waste". The Date Required is the investigation date and the Final Date is the estimated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$10

Screening Date 17-Jun-2011

Docket No. 2011-1016-MLM-E

PCW

Respondent Randy Richardson

Policy Revision 2 (September 2002)

Case ID No. 41895

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106112907

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 335.63(a) and 40 CFR § 262.12(a)

Violation Description

Failed to obtain an Environmental Protection Agency ("EPA") ID number prior to the treatment, storage and disposal of hazardous waste.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix  
Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

1

78

Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

x

(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$1,017

This violation Final Assessed Penalty (adjusted for limits) \$1,017

# Economic Benefit Worksheet

Respondent Randy Richardson  
Case ID No. 41895  
Reg. Ent. Reference No. RN106112907  
Media Industrial and Hazardous Waste  
Violation No. 7

Percent Interest 5.0  
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount  
Item Description No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	31-Mar-2011	31-Jan-2012	0.84	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to obtain an EPA ID number for processing hazardous waste. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Screening Date 17-Jun-2011

Docket No. 2011-1016-MLM-E

PCW

Respondent Randy Richardson

Policy Revision 2 (September 2002)

Case ID No. 41895

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106112907

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 335.9(a)(1)

Violation Description

Failed to keep records pertaining to hazardous and industrial solid waste management activities. Specifically, the Respondent did not have records regarding activity notification, permitting, waste classification, waste determination, personnel safety, waste analysis, waste treatment plans or manifesting.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

Greater than 70% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

mark only one with an x	daily	1	78 Number of violation days
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	X	

Violation Base Penalty \$1,000

One single event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$42

Violation Final Penalty Total \$1,017

This violation Final Assessed Penalty (adjusted for limits) \$1,017

# Economic Benefit Worksheet

**Respondent** Randy Richardson  
**Case ID No.** 41895  
**Reg. Ent. Reference No.** RN106112907  
**Media** Industrial and Hazardous Waste  
**Violation No.** 8

**Percent Interest** 5.0  
**Years of Depreciation** 15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$1,000	31-Mar-2011	31-Jan-2012	0.84	\$42	n/a	\$42
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain records regarding waste management activities at the Plant. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$42



Screening Date 11-May-2011

Docket No. 2011-1016-MLM-E

PCW

Respondent Randy Richardson

Policy Revision 2 (September 2002)

Case ID No. 41895

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106112907

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 9

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health &amp; Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description

Failed to obtain authorization prior to operating an industrial furnace used to melt aluminum and burn nickel filters for metal recovery.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release			
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification			
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 3

70 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,000

Three monthly events are recommended from the investigation date of March 2, 2011 to the May 11, 2011 screening date.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$229

Violation Final Penalty Total \$3,051

This violation Final Assessed Penalty (adjusted for limits) \$3,051

# Economic Benefit Worksheet

**Respondent** Randy Richardson  
**Case ID No.** 41895  
**Reg. Ent. Reference No.** RN106112907  
**Media** Industrial and Hazardous Waste  
**Violation No.** 9

**Percent Interest** 5.0  
**Years of Depreciation** 15

**Item Cost** **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	2-Mar-2011	31-Jan-2012	0.92	\$229	n/a	\$229
Other (as needed)				0.00	\$0	n/a	\$0

## Notes for DELAYED costs

Estimated expense to obtain authorization for operating an industrial furnace which was used to melt aluminum and burn nickel filters for metal recovery. The Date Required is the date of the investigation. The Final Date is the expected date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

## Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$229

Screening Date 11-May-2011

Docket No. 2011-1016-MLM-E

PCW

Respondent Randy Richardson

Policy Revision 2 (September 2002)

Case ID No. 41895

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106112907

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 10

Rule Cite(s) 30 Tex. Admin. Code § 111.201 and Tex. Health &amp; Safety Code § 382.085(b)

## Violation Description

Failed to comply with the general prohibition of outdoor burning, as documented during an investigation conducted on March 2, 2011. Specifically, the Respondent has been conducting outdoor burning of wooden pallets. The burn pile observed was approximately 50 cubic yards.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events

1

70

Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$1,017

Violation Final Penalty Total \$1,017

This violation Final Assessed Penalty (adjusted for limits) \$1,017

# Economic Benefit Worksheet

**Respondent** Randy Richardson  
**Case ID No.** 41895  
**Reg. Ent. Reference No.** RN106112907  
**Media** Industrial and Hazardous Waste  
**Violation No.** 10

**Percent Interest** 5.0  
**Years of Depreciation** 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

## Avoided Costs ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,017	1-Mar-2011	2-Mar-2011	0.00	\$0	\$1,017	\$1,017
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to dispose of approximately 50 cubic yards of municipal solid waste. The Date Required is one day prior to the investigation and the final date is the investigation date.

Approx. Cost of Compliance

\$1,017

**TOTAL**

\$1,017

# Compliance History

Customer/Respondent/Owner-Operator: CN603831231 Randy Richardson Classification: Rating:

Regulated Entity: RN106112907 RANDY RICHARDSON Classification: Site Rating:

ID Number(s): AIR QUALITY NON PERMITTED ID NUMBER TYL0005

Location: 160 VZ CR 4715, VAN ZANDT, TX, 75754

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: June 16, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 16, 2006 to June 16, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Michael Meyer Phone: (512) 239-4492

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
RANDY RICHARDSON  
RN106112907**

**§        BEFORE THE  
§  
§  
§        TEXAS COMMISSION ON  
§  
§  
§        ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2011-1016-MLM-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Randy Richardson ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates an aluminum and nickel recovery facility located at 160 Van Zandt County Road 4715 in Van Zandt County, Texas (the "Plant").
2. The Plant involves or involved the management of industrial solid and hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361 and consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 3, 2011 and June 5, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Sixty-One Thousand Seventeen Dollars (\$61,017) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). The Revenue Operations Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay part of the administrative penalty. Therefore, Fifty-Seven Thousand Four Hundred Seventeen Dollars (\$57,417) is deferred contingent upon the Respondent's timely and satisfactory compliance the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The Respondent has paid One Hundred Dollars (\$100) of the undeferred penalty. The remaining amount of Three Thousand Five Hundred Dollars (\$3,500) shall be payable in 35 monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Plant, the Respondent is alleged to have:



1. Failed to obtain a permit for the processing, storage and disposal of industrial solid and hazardous waste, in violation of 30 TEX. ADMIN. CODE §§ 335.2(a) and 335.43 and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 270.1(c), as documented during an investigation conducted on March 31, 2011. Specifically, the Respondent was using a furnace to burn fabric bags, socks, paper and plastic filter elements off of nickel-bearing waste for metal reclamation without first obtaining a permit for such activity.
2. Failed to prevent the unauthorized discharge of industrial solid and hazardous waste, in violation of 30 TEX. ADMIN. CODE § 335.4(1) and TEX. WATER CODE § 26.121, as documented during an investigation conducted on March 31, 2011. Specifically, discharges of ash were observed near the Industrial Furnace Building ("IFB") and on the east side of the property. The ash pile on the east side of the property was estimated to be approximately one to two cubic yards. Samples collected from these ash piles tested characteristically hazardous for chromium and lead. Some samples collected from just east of the IFB also tested characteristically hazardous for cadmium and lead. In addition, a large pile of waste consisting of empty steel drums, scrap metal and aluminum dross was observed north of the IFB.
3. Failed to conduct hazardous waste determinations and waste classifications on wastes received for treatment, storage and disposal from off-site generators, in violation of 30 TEX. ADMIN. CODE §§ 335.62, 335.503(a) and 335.513 and 40 CFR § 262.11, as documented during an investigation conducted on March 31, 2011. Specifically, the Respondent received 12 waste streams from off-site generators.
4. Failed to provide notification to the TCEQ for a facility that recycles, stores, processes or disposes of industrial solid and hazardous waste and to provide written notification for all waste management activities, in violation of 30 TEX. ADMIN. CODE § 335.6(a) and (c), as documented during an investigation conducted on March 31, 2011.
5. Failed to keep containers of hazardous waste closed except when adding or removing waste, in violation of 30 TEX. ADMIN. CODE § 335.69(a)(1)(A) and 40 CFR §§ 262.34(a)(1)(i) and 265.173(a), as documented during an investigation conducted on March 31, 2011. Specifically, three drums containing absorbent pads mixed with metal shavings were observed open. One of the drums tested characteristically hazardous for lead.
6. Failed to clearly label containers used to store hazardous waste with the words "Hazardous Waste", in violation of 30 TEX. ADMIN. CODE § 335.69(a)(3) and 40 CFR § 262.34, as documented during an investigation conducted on March 31, 2011. Specifically, three waste drums and two 250-gallon totes were sampled and found to be characteristically hazardous for lead and chromium, respectively. These containers were not labeled.
7. Failed to obtain an Environmental Protection Agency ("EPA") Identification ("ID") number prior to the treatment, storage and disposal of hazardous waste, in violation of 30 TEX. ADMIN. CODE § 335.63(a) and 40 CFR § 262.12(a), as documented during an investigation conducted on March 31, 2011.

8. Failed to keep records pertaining to hazardous and industrial solid waste management or treatment activities, in violation of 30 TEX. ADMIN. CODE § 335.9(a)(1), as documented during an investigation conducted on March 31, 2011. Specifically, the Respondent did not have records regarding activity notification, permitting, waste classification, waste determination, personnel safety, waste analysis, waste treatment plans or manifesting.
9. Failed to obtain authorization prior to operating an industrial furnace used to melt aluminum and burn nickel filters for metal recovery, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during an investigation conducted on March 2, 2011.
10. Failed to comply with the general prohibition of outdoor burning, in violation of 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 2, 2011. Specifically, it was noted that the Respondent has been conducting outdoor burning of wooden pallets. The burn pile observed was approximately 50 cubic yards.

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Randy Richardson, Docket No. 2011-1016-MLM-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order:
    - i. Cease processing, storage and disposal of any additional industrial solid and hazardous waste at the Plant until such time as a permit or authorization is obtained;

- ii. Begin maintaining records of all waste activities at the Plant, in accordance with 30 TEX. ADMIN. CODE § 335.9(a)(1); and
  - iii. Cease all unauthorized outdoor burning.
- b. Within 30 days after the effective date of this Agreed Order:
- i. Submit an administratively complete permit application for the industrial furnace, in accordance with 30 TEX. ADMIN. CODE § 335.2, to:  

Industrial Hazardous Waste Permits Section  
Waste Permits Division  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
  - ii. Respond completely and adequately, as determined by the TCEQ, to all letter requests for information concerning the permit application within 30 days after the date of such letters, or by any other deadline specified in writing;
  - iii. Submit an Affected Property Assessment Report, pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Executive Director for approval. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350 which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(1)); and Institutional Controls under Subchapter F;
  - iv. Submit a complete notification of all solid waste management and recycling activities conducted at the Plant, in accordance with 30 TEX. ADMIN. CODE § 335.6(a) and (c);
  - v. Conduct waste determinations and classifications on all wastes, in accordance with 30 TEX. ADMIN. CODE §§ 335.62, 335.503 and 335.513 and 40 CFR § 262.11;
  - vi. Develop and implement measures to ensure that all containers of hazardous waste are closed except when adding or removing waste, in accordance with 30 TEX. ADMIN. CODE § 335.69(a)(1)(A) and 40 CFR § 265.173(a);
  - vii. Develop and implement procedures to ensure that all containers used to store hazardous waste are marked or properly labeled with the words "Hazardous Waste", in accordance 30 TEX. ADMIN. CODE § 335.69(a)(3) and 40 CFR § 262.34;
  - viii. Obtain an EPA ID number, in accordance with 30 TEX. ADMIN. CODE § 335.63(a) and 40 CFR § 262.12(a);

- ix. Ensure that all waste, including burned material, is removed and properly disposed of at an authorized facility;
- x. Submit a TCEQ PI-7 Form to register for a Permit by Rule ("PBR") in accordance with 30 TEX. ADMIN. CODE ch. 106 in order to obtain authorization for the industrial furnace to:

Air Permits Division, MC 162  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- xi. Respond completely and adequately, as determined by the Executive Director, to all requests for information concerning the PBR Registration within 30 days after the date of such requests, or by any other deadline specified in writing; and
- c. Within 90 days after the effective date of this Agreed Order, submit written certification that either authorization to operate the industrial furnace has been obtained or that operation has ceased until such time that appropriate authorization is obtained.
- d. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to store, treat or dispose of waste has been obtained or that operation has ceased until such time that authorization is obtained.
- e. Within 15 days following completion of Ordering Provision Nos. 2.a. through 2.d. submit written certification documenting compliance with each provision. The certifications shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Air and Waste Section Managers  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Pam Searing  
For the Executive Director

4/9/13  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Randy Richardson  
Signature

3/29/13  
Date

Randy Richardson  
Name (Printed or typed)  
Authorized Representative of  
Randy Richardson

Owner  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.